

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
Request for Review)
of the Decision of)
the Universal Service Administrator by)
Madison District Schools) File No. SLD-159658
Madison Heights, Michigan)
Federal-State Joint Board on Universal Service) CC Docket No. 96-45
Changes to the Board of Directors of the) CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)

ORDER**Adopted: June 6, 2001****Released: June 7, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Request for Review filed by the Madison District Schools (Madison), Madison Heights, Michigan, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Madison seeks review of SLD's denial of its application for discounts for internal connections under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Madison's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all

¹ Letter from Diane McCord, Madison District Schools, to Federal Communications Commission, filed February 13, 2001 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

potential competing service providers to review.⁴ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting a FCC Form 471, which requests support for eligible services.⁵ SLD reviews the FCC Form 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. In the *Fifth Reconsideration Order*, the Commission established rules to govern how discounts would be allocated when total demand exceeds the amount of funds available and a filing window is in effect.⁶ These rules provide that requests for telecommunications and Internet access service for all discount categories shall receive first priority for available funds (Priority One services), and requests for internal connections shall receive second priority (Priority Two services).⁷ Thus, when total demand exceeds the total support available, SLD is directed to give first priority for available funding to telecommunications service and Internet access.⁸ Any funding remaining is allocated to requests for support for internal connections, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix.⁹ Schools and libraries eligible for a 90 percent discount would receive first priority for the remaining funds, which would be applied to their request for internal connections. To the extent that funds remain, the Administrator would continue to allocate funds for discounts to eligible applicants at each descending single discount percentage, e.g., eighty-nine percent, eighty-eight percent, and so on until there are no funds remaining.¹⁰

⁴ 47 C.F.R. § 54.507(g)(1)(iii); 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service First Report and Order* in part and reversing and remanding on unrelated grounds), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S.Ct. 423 (November 2, 2000).

⁵ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁶ See *Federal-State Joint Board on Universal Service*, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, 13 FCC Rcd 14915, 14934 at para. 31 (1998) (*Fifth Reconsideration Order*).

⁷ See 47 C.F.R. § 54.507(g)(1)(i).

⁸ The annual cap on federal universal service support for schools and libraries is \$2.25 billion per funding year. See 47 C.F.R. § 54.507(a).

⁹ *Fifth Reconsideration Order*, 13 FCC Rcd at 14938, para. 36. The schools and libraries discount matrix reflects both an applicant's urban or rural status and the percentage of its students eligible for the national school lunch program. 47 C.F.R. § 54.505.

¹⁰ In the *Eleventh Order on Reconsideration*, the Commission clarified that to the extent that there are single discount percentage levels associated with "shared services," the Administrator shall allocate funds for internal connections beginning at the ninety percent discount level, then for eighty-nine percent, eighty-eight percent and so on. *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, *Federal-State Joint Board on Universal Service*, Fifth Order on Reconsideration in CC Docket No. 97-21, Eleventh Order on (continued....)

4. Madison applied for funding for internal connections.¹¹ As indicated on its FCC Form 471, Madison qualified for a 49% discount rate in Funding Year 3.¹² By letter dated April 14, 2000, SLD denied Madison's application for discounts on internal connections.¹³ In so doing, SLD stated that the "[f]unding cap [in Funding Year 3] will not provide for internal connections less than 81% discount to be funded."¹⁴ In response, Madison filed an appeal with SLD arguing that as the economy starts to slow down its national school lunch program count would rise.¹⁵ SLD subsequently affirmed its denial of Madison's funding request on February 5, 2001.¹⁶ SLD stated that an applicant may not use projections to figure out its discount percentage based on the condition of the economy.¹⁷ SLD further outlined the Commission's rules governing funding priorities and explained that Madison was denied funding because there were not sufficient funds to provide internal connections requests to applicants that are below the 82% shared discount level.¹⁸ Madison then filed the instant Request for Review with the Commission.¹⁹

5. We have reviewed Madison's Request for Review and conclude that SLD properly denied the Madison's application. Madison has raised no new issues on appeal. Further, Madison has failed to demonstrate that SLD incorrectly applied our rules concerning funding priorities. Accordingly, we uphold SLD's decision and deny Madison's Request for Review.

(Continued from previous page) _____

Reconsideration in CC Docket No. 96-45, and Further Notice of Proposed Rulemaking, 14 FCC Rcd 6033, 6035, para. 6 (1999) (*Eleventh Order on Reconsideration*).

¹¹ FCC Form 471, Madison School District, filed January 19, 2000.

¹² *Id.*

¹³ Letter from Schools and Libraries Division, Universal Service Administrative Company to Jackie Keene, Madison School District, dated April 14, 2000 (Funding Commitment Decision Letter).

¹⁴ Funding Commitment Decision Letter. To qualify for a discount greater than 80 percent, the percentage of students eligible for the national school lunch program must be 75 percent or above. See 47 C.F.R. § 54.505(c).

¹⁵ Letter from Jackie Keene, Madison District Public School, to Schools and Libraries Division, Universal Service Administrative Company, filed May 8, 2000.

¹⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jackie Keene, Madison School District, dated February 5, 2001 (Administrator's Decision on Appeal).

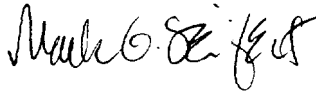
¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Request for Review.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by the Madison School District, Madison, Heights, Michigan, on February 13, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau